



## **COMMISSION MEETING MINUTES**

**September 15, 2003**

The Commissioners of the Texas Alcoholic Beverage Commission met in Regular Session on Monday, September 15, 2003, at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

***PRESIDING:*** John T. Steen, Jr., Commissioner Chairman

***PRESENT:*** Gail Madden, Commissioner  
Kel Seliger, Commissioner

***STAFF PRESENT:*** Alan Steen, Administrator

Lou Bright, General Counsel  
Jeannene Fox, Assistant Administrator  
Greg Hamilton, Chief of Enforcement  
Denise Hudson, Director of Resource Management  
Charlie Kerr, Director of Fiscal Services  
Andrea Luna, Grants and Planning Coordinator  
Sam Smelser, Assistant Chief of Enforcement

***GUESTS PRESENT:*** Doug DuBois, Texas Petroleum Marketers and Convenience Store Association  
Glen Garey, Texas Restaurant Association  
Alan Gray, Licensed Beverage Distributors, Inc.  
Fred Marosko, Texas Package Stores Association  
Mike McElhaney, Office of the Governor  
Robert Sparks, Licensed Beverage Distributors, Inc.

**CALL TO ORDER**

Chairman John T. Steen, Jr., called the meeting of the Texas Alcoholic Beverage Commission (TABC) to order.

### **APPROVAL OF AUGUST 25, 2003, COMMISSION MEETING MINUTES**

**Chairman Steen called for a motion to approve the meeting minutes of August 25, 2003. Ms. Madden moved to approve the minutes. Mr. Seliger seconded the motion. The motion carried.**

### **ADMINISTRATOR'S REPORT**

Chairman Steen called upon Administrator Alan Steen to provide the Administrator's Report.

Mr. Steen reported that TABC's self-assessment portion of the Sunset Review was completed and submitted to legislative leadership. He commended staff for their efforts in ensuring its timely submission. TABC will be involved in a widespread education effort concerning the Sunset process with TABC staff and the alcoholic beverage industry so that common goals can be communicated to the legislative leadership as the Sunset process evolves.

In response to questions asked at the previous Commission meeting concerning Russell Gregorczyk's audit recommendation on the Information Technology (IT) head position, Mr. Steen stated that the decision was made to move the IT head under the office of the Administrator.

Mr. Steen discussed the audit performed on TABC's Internal Audit Department by Richard Tarr of Orlando, Florida. The purpose of the audit was to provide assurance that TABC's internal audit work met professional standards. As a result of Mr. Tarr's audit report, a management audit committee of Austin management staff will be established in order to track recommendations. **The Commissioners requested that they receive a copy of Mr. Tarr's report; Mr. Steen assured them that they would receive a copy.**

### **FISCAL STEWARDSHIP OF AGENCY**

Chairman Steen called upon Denise Hudson, Director of Resource Management, to provide the report on the fiscal stewardship of the agency. Ms. Hudson referred to an earlier report provided to the Commissioners on legislative caps. She reported that even with the 7% budget reductions, TABC was under the legislative caps on out-of-state travel, FTEs (full-time equivalents), and the capital budget.

## **ADMINISTRATOR'S REPORT (CONTINUED): MARKETING PRACTICES**

Chairman Steen indicated that another subject was intended to be addressed in the Administrator's report. Mr. Steen stated that he wanted the subject of marketing practices to be discussed and requested Sam Smelser to present on the subject. Mr. Smelser, Assistant Chief of Enforcement, provided a PowerPoint presentation on marketing practices (Attachment 1).

Commissioner Seliger asked what the most common reasons were for denials of labels. Mr. Smelser responded that it depended upon the label's category. In most cases, TABC allows for resubmission if the label was a sample. He stated that the majority of denials are in the categories of beer, ale, or malt beverages. He provided the example that if a beverage was labeled as a beer, but the alcohol content was over 4%, the manufacturer of the product would either need to change the alcohol content or change the label.

Chairman Steen asked how controversial labels are handled. Mr. Smelser responded that decisions on controversial labels are typically handled by him and would also be handled by the marketing practices director, when hired. Also, for particularly sensitive issues, the Marketing Practices Committee, consisting of the Administrator and other management staff, would meet. Typically, decisions made by the Marketing Practices Committee are published to staff to ensure consistency. However, an issue in one part of the state may be treated differently from another part of the state simply because of different factors involved in a particular situation.

Chairman Steen expressed interest in the web-based application process. Mr. Smelser reported that he and the Information Resources Department will begin work on the process and should be able to present the information to the Commissioners at an upcoming meeting.

## **APPROVAL OF FISCAL YEAR 2004 OPERATING BUDGET**

Chairman Steen called upon Charlie Kerr, Director of Fiscal Services, to report on the FY 2004 operating budget (Attachment 2).

Mr. Kerr explained that the internal auditor made a recommendation for the Commissioners to review the operating budget in addition to the Legislative Appropriations Request (LAR) that they officially approve in Commission meetings. Mr. Kerr stated that he had sent a copy of the proposed operating budget to the Commissioners. The budget is broken out by departments versus strategies, but follows the original LAR closely. Mr. Kerr stated that

budget amendments would be reported to the Commissioners on a monthly basis.

Ms. Madden asked about the agency's plan to cover part of the budget reduction for 2004 by posting vacated positions at entry-level salaries. Alan Steen clarified that there are approximately 25 positions that are vacant across the state and that there is no one particular area that is affected. The entry-level decision applies to those staff who have retired and are rehired at TABC.

**Chairman Steen called for a motion. Ms. Madden moved that the TABC Commissioners approve the proposed 2004 operating budget. Mr. Seliger seconded. The motion carried.**

### **OBJECTIVES AND PRIORITIES FOR GRANT FUNDING ACTIVITIES FOR FISCAL YEAR 2004**

Andrea Luna, Grants and Planning Coordinator, discussed the proposal to increase the Commissioners' involvement in the development of grant funding initiatives (Attachment 3). Ms. Luna explained that since the previous Commission meeting, the Executive Management Team met to discuss possible grants to pursue in the upcoming months and potential priorities for awarding TABC's Enforcing Underage Drinking Laws funding to local entities. Ms. Luna requested the Commissioners' direction on the grants TABC should pursue in the upcoming year and their priorities for awarding funding to other entities throughout the state.

The Commissioners discussed the grant priorities, noting their interest in prevention/education grants and the expansion of the Shattered Dreams program. Ms. Luna discussed the programs and new initiatives that TABC as a grantee could apply for and those that TABC could award, as grantor, to other entities. The Commissioners commended Ms. Luna for her expertise and work in the area of grants for TABC.

### **APPOINTMENT OF COMMISSIONER REPRESENTATIVE ON MANAGEMENT AUDIT COMMITTEE**

Administrator Alan Steen discussed the proposal for appointing a Commissioner representative to serve as liaison with staff and Auditor Russell Gregorczyk on the Management Audit Committee. This would allow the Commissioners to be better informed on the implementation progress of audit recommendations.

**Chairman Steen called for a motion. Mr. Seliger moved that Commissioner Madden be named to serve as Commissioner liaison with the outside auditor and staff Management Audit Committee. Ms. Madden seconded the motion. The motion carried.**

#### **PUBLIC COMMENT**

Chairman Steen asked if anyone wished to make public comment; there were no requests to provide public comment.

#### **ADJOURNMENT**

**Mr. Seliger moved to adjourn. Ms. Madden seconded the motion. The motion carried, and Chairman Steen announced the adjournment.**